

### **REMARKS**

Claims 23, 28, 48-53, 55, 59-62, and 64-67 are pending. The rejections of these claims are addressed in detail below.

#### **Obviousness-Type Double Patenting**

Claims 23, 28, 48, 55, 59 and 64 are rejected as unpatentable over claims 1, 6-8 and 14 of Collins *et al.*, US Patent No. 6,248,714 (“the ‘714 patent”) in view of Cookson *et al.*, US Patent No. 6,387,615 (“the ‘615 patent”), Hamelmann *et al.* (Allergy and Clinical Immunology International, Abstract, Vol. 10/2:59-63, 1998; “Hamelmann”), and King *et al.*, (Journal of the National Medical Association, Abstract, Vol. 91/8:9S-15S, August 1999; “King”).

The rejection cannot be sustained because King is not prior art to the claimed subject matter. The pending claims are supported by priority application U.S.S.N. 09/211,335, which was filed December 14, 1998. King was made available to the public in August of 1999. As King was published after the priority date of the instant application, this reference does not qualify as prior art.

Accordingly, applicants request withdrawal of the rejection for obviousness-type double patenting.

#### **Rejections under 35 USC § 103(a)**

Claims 23, 28, 48-53, 55, 59-62, and 64-67 are rejected as unpatentable over Collins *et al.*, US Patent No. 5,710,023 (“the ‘023 patent”) in view of Hamelmann, and King. As discussed above, King is not prior art to the claimed invention.

Claims 23, 28, 48-53, 55, 59-62, and 64-67 are rejected as unpatentable over the '714 patent in view of Hamelmann and King. As King was published after the priority date of the instant application, this reference does not qualify as prior art.

The rejection under 35 USC § 103(a) cannot be sustained with the remaining references. Claims 23 and 28, from which the other rejected claims depend, are directed to the treatment of an allergen-induced airway hyper responsiveness, which is neither mentioned nor suggested in the '714 patent. Hamelmann fails to disclose that the inhibition of IL-13 binding to IL-13R is useful in any setting and therefore does not cure the deficiencies of the '714 patent. Thus, Applicants submit that the rejected claims are not be obvious in view of the '714 patent and Hamelmann, either alone or in combination. This rejection should be withdrawn.

Claims 23, 28, 48-53, 55, 59-62, and 64-67 are rejected under 35 USC § 103(a) as being obvious over Collins *et al.*, US Patent No. 6,268,480 ("the '480 patent"), in view of Hamelmann and King. King does not qualify as prior art for the reasons discussed above.

The rejection under 35 USC § 103(a) cannot be sustained with the remaining references. Claims 23 and 28, from which the other rejected claims depend, are directed to the treatment of an allergen-induced airway hyper responsiveness, which is neither mentioned nor suggested in the '480 patent. Hamelmann fails to disclose that the inhibition of IL-13 binding to IL-13R is useful in any setting and therefore does not cure the deficiencies of the '480 patent.

Thus, Applicants submit that the rejected claims would not be obvious in view of the '480 patent and Hamelmann, either alone or in combination. This rejection should be withdrawn.

Claims 23, 28, 48-53, 55, 59-62, and 64-67 are rejected under 35 USC § 103(a) as being obvious over Collins *et al.* US Patent No. 6,214,559 ("the '559 patent") in view of Hamelmann

**Applicants:** Collins, *et al.*  
**U.S.S.N.** 09/868,123

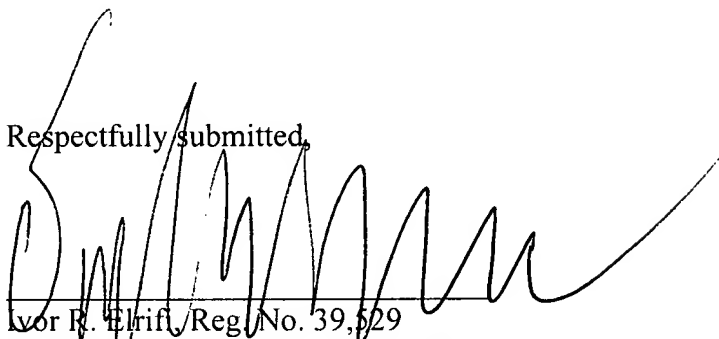
and King. King does not qualify as prior art for the reasons discussed above. The rejection under 35 USC § 103(a) cannot be sustained with the remaining references.

Claims 23 and 28, from which the other rejected claims depend, are directed to the treatment of an allergen-induced airway hyper responsiveness, which is neither mentioned nor suggested in the '559 patent. Hamelmann fails to disclose that the inhibition of IL-13 binding to IL-13R is useful in any setting and therefore does not cure the deficiencies of the '559 patent.

Thus, Applicants submit that the rejected claims would not be obvious in view of the '559 patent and Hamelmann, either alone or in combination. This rejection should be withdrawn.

Applicants submit that the application is in condition for allowance, and such action is respectfully requested. Please charge any payments or credit any overpayments of the same to Deposit Account No. 50-0311, reference 22058-514 NATL.

Respectfully submitted,



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